

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
PO BOX 20207  
NASHVILLE, TENNESSEE 37202

April 14, 2010

Opinion No. 10-50

Application of Zoning to Sport Shooting Ranges under Tenn. Code Ann. § 39-17-316(c)

**QUESTION**

If a sport shooting range fails to comply, or discontinues compliance with, one or more of the requirements set forth in Tenn. Code Ann. § 39-17-316(c)(1) and (c)(2), does the sport shooting range become subject to land use planning or zoning applicable to the shooting range's location?

**OPINION**

In accordance with Tenn. Code Ann. § 39-17-316(c)(1) and (c)(2), a sport shooting range that fails to meet the specific requirements of the statute becomes subject to the land use and zoning restrictions that apply to its location, except that Tenn. Code Ann. § 39-17-316(b)(2) would still guarantee the right of such a shooting range to operate if it is in compliance with all noise control requirements of local government that applied to the shooting range at the time it began operations.

**ANALYSIS**

The General Assembly has delegated to local governments certain express authority to enact zoning ordinances and general police power regulations. *421 Corp. v. Metro Gov. of Nashville*, 36 S.W.3d 469, 475 (Tenn. Ct. App. 2000). The Tennessee Supreme Court has noted that the local government's authority to exercise the police power of the sovereign is necessarily broad so as to meet the needs of our "complex civilization." *City of Norris v. Bradford*, 321 S.W.2d 543, 546 (Tenn. 1958). This broad authority notwithstanding, there are also several significant limitations to local government regulatory power, the most basic of which is that a local government may not exceed the power expressly granted to it by the General Assembly. *Id.* Thus, while granted "considerable discretion" in the exercise of its delegated regulatory authority, a local government's actions must not conflict with state law. *Id.*

In enacting Tenn. Code Ann. § 39-17-316(c), the General Assembly has limited the power of local government to amend, restrict or terminate the operations of a sport shooting range under certain conditions. The statute provides, in pertinent part:

[W]ith respect to any sport shooting range that is open to the public and was in continuous operation for at least thirty (30) years immediately preceding December 16, 2008, the right to operate as a shooting range shall not be amended, restricted or terminated due to any land use planning or zoning applicable to the shooting range's location if:

(1) The shooting positions operate no closer than:

(A) One hundred fifty feet (150') from any adjoining boundary line or county road that extends from the southeast corner to the southwest corner;

(B) One hundred eighty feet (180') from any adjoining boundary line that extends from the southwest corner to the northwest corner;

(C) One hundred eighty feet (180') from any adjoining boundary line that extends from the northwest corner to the northeast corner;

(D) One hundred eighty feet (180') from any adjoining boundary line or county road that extends from the northeast corner to the southeast corner; and

(E) One hundred eighty feet (180') from any adjoining residential property boundary line, notwithstanding subdivisions (c)(1)(A)-(D).

(2) Any vegetation between the appropriate distance requirement described in subdivision (c)(1) and the adjoining boundary line or county road remains undisturbed.

Tenn. Code Ann. § 39-17-316(c).

The Tennessee Supreme Court has stated that in interpreting statutes, courts are to “give effect to the legislative intent without unduly restricting or expanding a statute’s coverage beyond its intended scope.” *Owens v. State*, 908 S.W.2d 923, 926 (Tenn. 1995). Moreover, intent is to be derived “from the natural and ordinary meaning of the statutory language within the context of the entire statute without any forced or subtle construction that would extend or limit the statute’s meaning.” *State v. Flemming*, 19 S.W.3d 195, 197 (Tenn. 2000). The rules of statutory construction prevent the assignment of “a particular interpretation to a statute if that interpretation would yield an absurd result.” *State v. Sims*, 45 S.W.3d 1, 11 (Tenn. 2001).

There can be little doubt from the plain language of Tenn. Code Ann. § 39-17-316(c) that the intent of the General Assembly was specifically to restrict local government’s regulatory authority to amend, restrict or terminate the operation of any sport shooting range which meets the specific statutory requirements regarding the placement of shooting positions and the maintenance of boundary vegetation. In so doing, the General Assembly did not otherwise limit a local government’s regulatory authority. A local government’s delegated authority includes

the enforcement of land use planning and zoning regulations applicable to a specific shooting range's location. In such cases, local government has the authority to amend, restrict, or terminate the operations of a sport shooting range that does not comply, or ceases to comply, with these above-mentioned statutory requirements.<sup>1</sup>

Nevertheless, the General Assembly has provided some protections for sport shooting ranges that fall outside Tenn. Code Ann. § 39-17-316(c), thereby further limiting the authority of local governments. Tenn. Code Ann. § 39-17-316(b)(2) provides:

A person or entity that operates or uses a sport shooting range is not subject to an action for nuisance, abatement, or any other type of action or proceeding which would have the effect of limiting, reducing, eliminating or enjoining the use or operation of the sport shooting range as a sport shooting range if the sport shooting range is in compliance with any applicable noise control laws, resolutions, ordinances or regulations issued by a unit of local government, that applied to the range and its operation at the time that the range began operation.

Tenn. Code Ann. § 39-17-316(b)(2). Under this statute, local government would be barred from bringing a nuisance, abatement, or similar action to terminate a shooting range's operations because of noise pollution so long as the shooting range is in compliance with the noise control laws and regulations that applied to the shooting range's location at the time the shooting range began operations. In addition, Tenn. Code Ann. § 39-17-316(b)(1) provides considerable protection from civil or criminal liability for operators and users of a sport shooting range if the range complies with the local noise control provisions that were in effect when it began operation.

ROBERT E. COOPER, JR.  
Attorney General and Reporter

MICHAEL E. MOORE  
Solicitor General

BRIAN J. RAMMING  
Assistant Attorney General

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<sup>1</sup> Ultimately, whether a shooting range is in compliance with the requirements of Tenn. Code Ann. § 39-17-316(c) would be a factual determination made by a local government.

Requested by:

The Honorable Richard Floyd  
State Representative, 27th Legislative District  
Suite G-24, War Memorial Building  
Nashville, Tennessee 37243